

Monday, June 28, 2021

John C. Hopewell, III
Hopewell Law Firm, LLC
21122 Old Scenic Highway – Suite B
Zachary, Louisiana 70791

**Re: Louisiana Board of Ethics
Docket No. 2021-352**

Dear Mr. Hopewell:

The Louisiana Board of Ethics ("Board"), at its July 9, 2021 meeting, considered your request for an advisory opinion as to whether the Louisiana Code of Governmental Ethics ("Code") would prohibit your law firm from subleasing an office to a third party contractor of the City of Zachary while you also serve as the City Attorney for the City of Zachary.

FACTS PROVIDED

You are a practicing attorney, the City Attorney for the City of Zachary, and the managing member of Hopewell Law Firm, LLC ("Firm"). You were appointed the City Attorney for the City of Zachary in 2011. As the City Attorney, you are the Chief Legal Officer for the City of Zachary.

The Firm leases its office space from Old Scenic Properties, LLC. After one of the Firm's offices spaces became available for sublease, a third party contractor of the City of Zachary approached the Firm about subleasing an available office space. The third party contractor provides technical guidance and construction contract management professional services to the City of Zachary.

LAW

La. R.S. 42:1102(20.1) defines "service" to mean the performance of work, duties, responsibilities or the leasing, rental, or sale of movable or immovable property.

La. R.S. 42:1111(C)(2)(d) provides that no public servant and no legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, shall receive any thing of economic value for or in consideration of services rendered, or to be rendered, to or for any person during his public service unless such services are: (d) Neither performed for nor compensated by any person or from any officer, director, agent, or

employee of such person, if such public servant knows or reasonably should know that such person has or is seeking to obtain contractual or other business or financial relationships with the public servant's agency; conducts operations or activities which are regulated by the public employee's agency; or has substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official duty.

La. R.S. 42:1112(B)(5) prohibits a public servant from participating in a transaction in which the following person has a substantial economic interest: Any person who is a party to an existing contract with such public servant, or with any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, or who owes anything of economic value to such public servant, or to any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, and who by reason thereof is in a position to affect directly the economic interests of such public servant.

CONCLUSION

The Board concluded, and instructed me to inform you, that based on the facts presented, the Code does not prohibit the Firm from entering into a sublease with the third party contractor. La. R.S. 42:1111(C)(2)(d) prohibits a public servant and legal entity's in which the public servant owns more than twenty-five percent shall receive any thing of economic value for service rendered or to be rendered for any person from whom the public servant would be prohibited from receiving gifts in accordance with La. R.S. 42:1115(A)(1) or (B). The third party contractor does not have a contractual, business, or other financial relationship with your agency – the Office of the City Attorney. Therefore, a sublease between the Firm and the third party contractor would not violate La. R.S. 42:1111(C)(2)(d). However, once the Firm has entered into a sublease with the third party contractor, take care to not participate in any transaction with the third party contractor so as to not violate La. R.S. 42:1112(B)(5).

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Louisiana Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Louisiana Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, and the conflict of interest provisions contained in the Louisiana Gaming Control Law. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,
LOUISIANA BOARD OF ETHICS

LaToya D. Jordan
For the Board